IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

CWP No.535 of 2004

Date of decision 15.5.2007

Mohan Middle School and another Petitioners

Vs.

State of H.P. and others Respondents

Coram:

The Hon'ble Mr.Justice Rajiv Sharma,J.

Whether approved for reporting?[1] No.

For the Petitioners: Mr. K.D.Sood, Advocate.

For the Respondents : Mr.M.S.Chandel, Advocate General, with, Mr.M.A.Khan and Ms. Meenakshi Sharma, Deputy Advocate Generals.

Rajiv Sharma, J.(Oral).

The brief facts necessary for the adjudication of this petition are that the petitioner Managing Committee had approached this Court by way of CWP No.241 of 1999, which was disposed of by this Court on 23.9.2003. This Court had permitted the petitioners to furnish such information/document/record in their possession which may be required by the State respondent for the purpose of taking a decision on the claim of the petitioner school for the release of grant-in-aid. In sequel to judgment of this Court dated 23.9.2003 the petitioners had submitted the necessary documents to the Principal Secretary (Education) to the Government of Himachal Pradesh. The Secretary (Education) has rejected the case of the petitioners for the release of grant-in-aid by making following observations:

> The management of the school was asked to submit the audited accounts of school from 1990 to 2002 but failed to

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[1] Whether reporter of local papers are allowed to see the judgment ? No.

> do so and the case has been considered as per record placed before us. Moreover the M.M. Trust had frozen the salaries of the teachers during the year 1997 and the grievance of the petitioners is against the management as per terms and conditions of their appointment letters(copy enclosed)"…"

Mr.K.D.Sood, learned counsel appearing for the petitioners submits that his clients had sought three days' time during the meeting from the Secretary (Education) to furnish the audited accounts of the schools from 1992 to 2002 but their prayer was declined. Mr.Sood further submits that his clients are ready and willing to furnish audit accounts of the schools from 1992 to 2002 as well as other material which may be necessary for the decision. The prayer made by Mr.K.D.Sood is genuine. The case of the Management has been rejected only on the ground that it has not submitted the audit accounts of the schools from 1992 to 2002. The order dated 19.2.2004 is also not in consonance with the letter and spirit of the judgment of the Hon'ble Supreme Court rendered in **State of H.P. vs**. **H.P. State Recognized and Aided Schools Managing Committee and others,** 1995(4)SCC 507 read with judgment of this court rendered in earlier petition filed by the Management bering CWP No.241 of 1999 decided on 23.9.2003. Accordingly this petition is disposed of with following directions:

The Management of school will submit audit accounts of the schools with effect from 1992-2002 within a period of four weeks to the Secretary (Education). The Secretary (Education) will consider the case of the Management for the release of grant-in-aid after scrutinizing the documents submitted by the petitioners or any other document as directed by him to be produced by the school. The final decision be taken by the Secretary (Education) within a period of four weeks after the documents are submitted by the Management of the school.

May 15, 2007(g) **(Rajiv Sharma), J.**